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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,251	02/12/2004	Keith E. Kropf	P06716US0	5403

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DES MOINES, IA 50309-2350

EXAMINER
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BOGART, MICHAEL G

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/777,251	<b>Applicant(s)</b> KROPF ET AL.	
	<b>Examiner</b> Michael G. Bogart	<b>Art Unit</b> 3761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections – 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10 and 11 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ives US 6,454,748 B1).

Regarding claim 1, Ives teaches a disposable diaper (10) comprising:

a diaper body (26) having an outer surface (30);

a first layer (14) secured to the diaper body (26);

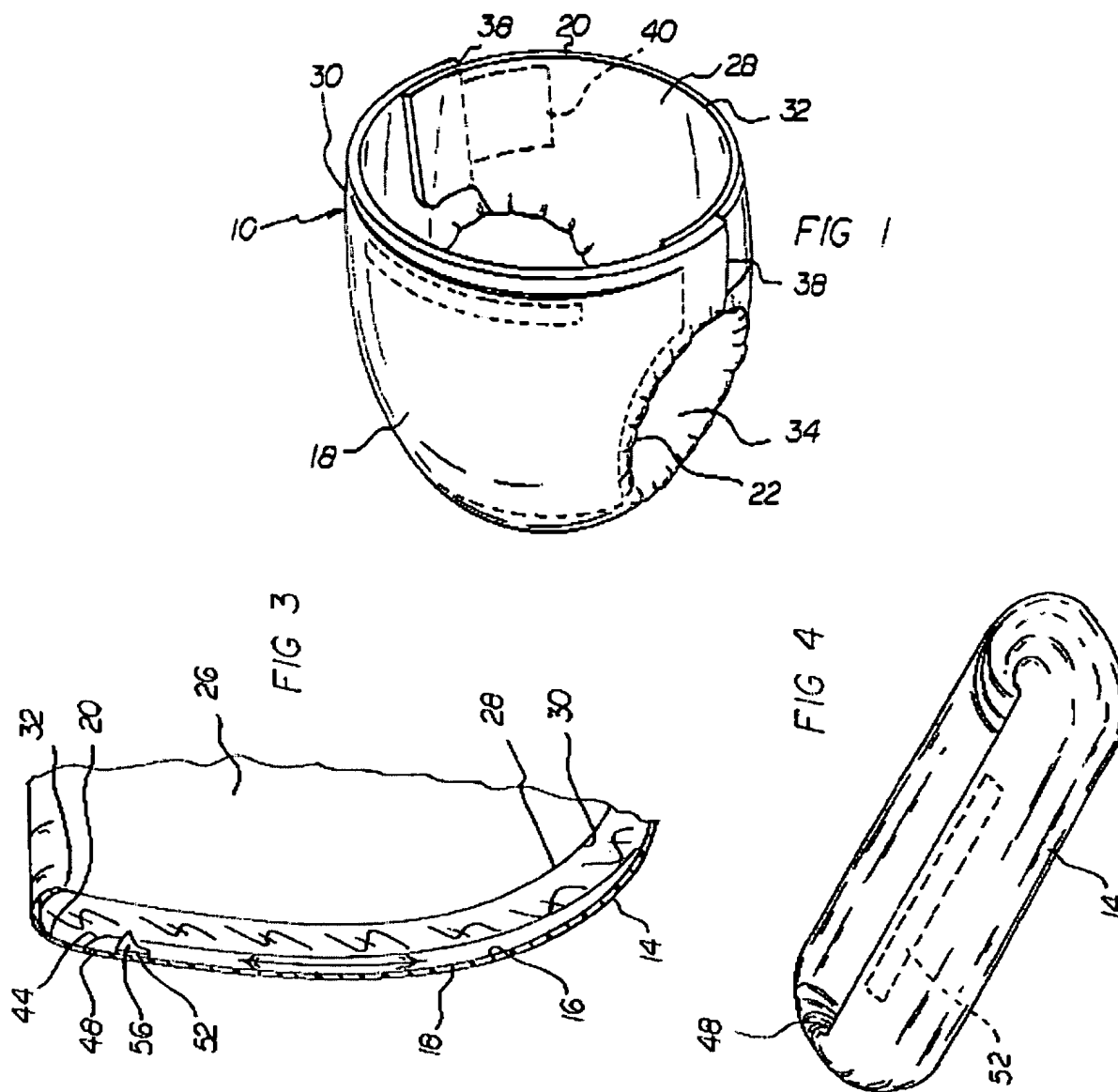
a second layer (44) secured to the diaper body to form a pocket between the first and second layer (14, 44); and

a means (52) for sealing the pocket for containing waste and odor (see figures 1, 3, and 4, below).

Regarding claim 2, Ives teaches that the first layer (14) and the second layer (44) are waterproof (column 4, lines 8-13; column 4, lines 25-33).

Regarding claim 3, Ives teaches that the sealing means (52) is tape strip attached to a first surface of the second layer (14)(column 4, lines 39-48).

Regarding claim 4, Ives teaches that the tape strip has a releasable protective facing (56).



Regarding claim 5, Ives teaches that the sealing means (52) is an interlocking closure (e.g., Velcro®)(column 4, lines 39-48).

Regarding claim 6, Ives teaches a method for disposing of a diaper (10), comprising the steps of:

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providing a diaper body (26) having an outer surface pocket (48) formed on the outer surface of the diaper body (26);

rolling the diaper body (26) inwardly toward the pocket (48);

inverting the pocket (48) to receive the diaper body (26); and

sealing the pocket (48) to enclose the diaper body (26) to form an air tight seal (Ziploc® strip)(column 1, line 55-column 2, line 29; column 4, lines 61-67)(figure 4, supra).

Regarding claim 7, Ives teaches a disposable diaper (10) comprising:

a diaper body (26) having an outer surface (44);

a layer (14) secured to the diaper body (26) to form a pocket (48) between the layer (14) and the outer surface (44); and

a means (52) for sealing the pocket (48) for containing waste and odor such that when the pocket is inverted the means for sealing forms an airtight seal (column 4, lines 61-67)(figure 4).

Regarding claim 8, Ives teaches that the layer (14) is waterproof (column 4, lines 8-13).

Regarding claim 10, Ives teaches that the tape strip (52) has a releasable protective facing (56).

Regarding claim 11, Ives teaches that the sealing means (52) is an interlocking closure attached (column 4, lines 39-48).

### ***Claim Rejections – 35 USC § 103***

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. § 102(e), (f) or (g) prior art under 35 U.S.C. § 103(a).

Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ives.

Ives does not expressly teach that the tape fastener forms an airtight seal.

Ives does teach an embodiment where the seal is in the form of a tape strip (column 4, lines 39-48). Ives teaches an alternative embodiment which uses a Ziploc® type seal which is airtight and serves to prevent odor leakage (column 4, lines 61-67).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to make the tape seal strip as airtight and odor proof as possible as suggested by the reference at column 4, lines 61-64). The use of a tape strip to achieve this is desirable as it greatly reduces the cost relative to a Ziploc® style closure.

### ***Response to Arguments***

Applicant's arguments filed 20 October 2005 have been fully considered but they are not persuasive.

Regarding claims 1-5, Applicants assert that Ives does not teach a second layer having an interior surface secured to the diaper body. This argument is not persuasive for the reasons described in detail supra. It is noted that the rejection dated 03 October 2005 has been modified to reflect the amendments to the claims.

Regarding claims 6-8, 10 and 11, Applicants assert that when inverted and sealed, the claimed invention forms an airtight seal. This argument is not persuasive because Ives teaches that the seal can be in the form of an airtight Ziploc® style closure (col. 4, lines 61-67).

Applicant's arguments with respect to claim 9 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

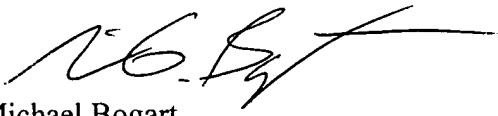
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michael Bogart  
5 January 2006

**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**  
